

The Honorable Robert S. Lasnik

UNITED STATES DISTRICT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

KATHY JO RAMTHUN,

Plaintiff,

v.

WAL-MART STORES, INC., a Delaware
corporation doing business in Washington,

Defendant.

NO. 2:17-cv-01440-RSL

DEFENDANT WALMART INC.'S
ANSWER TO FIRST AMENDED
COMPLAINT FOR PERSONAL
INJURIES AND DAMAGES

JURY DEMAND

Defendant Walmart Inc. ("Walmart") (incorrectly identified in the Complaint as WAL-MART STORES, INC.) answers Plaintiff's First Amended Complaint for Personal Injuries and Damages ("Complaint") as follows:

1. In response to paragraph 1.1 of the Complaint, Walmart is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein.

2. In response to paragraph 1.2 of the Complaint, Walmart admits that it is a Delaware corporation and that at all times material hereto, it owned and operated a Walmart store at 762 Outlet Collection Way Auburn, Washington. The remaining allegations contained in said paragraph appear to constitute a legal conclusion to which no response is required. To the extent that a response is required, Walmart denies the same.

DEFENDANT WALMART INC.'S ANSWER TO FIRST AMENDED
COMPLAINT FOR PERSONAL INJURIES AND DAMAGES - 1
(2:17-cv-01440-RSL)

6514922.1

Williams, Kastner & Gibbs PLLC
601 Union Street, Suite 4100
Seattle, Washington 98101-2380
(206) 628-6600

1 3. Walmart admits the allegations in paragraph 1.3 of the Complaint [pertaining to
2 Grayhawk], upon information and belief.

3 4. Walmart admits the allegations in paragraph 1.3 [sic] of the Complaint [pertaining to
4 the propriety of jurisdiction].

5 5. Walmart admits the allegations in paragraph 1.4 of the Complaint.

6 6. In response to paragraphs 2.1, 2.2, 2.3 and 2.4 of the Complaint, Walmart is without
7 knowledge or information sufficient to form a belief as to the truth of the allegations contained
8 therein, and therefore denies the same.

9 7. Walmart denies the allegations in paragraph 3.1 of the Complaint.

10 8. In response to paragraph 3.2 of the Complaint, Walmart is without knowledge or
11 information sufficient to form a belief as to the truth of the allegations contained therein, and
12 therefore, denies the same.

13 9. In response to paragraph 3.3 of the Complaint, said paragraph constitutes a legal
14 conclusion to which no response is required. To the extent that a response is required, Walmart
15 denies the same.

16 10. Walmart denies the allegations in paragraphs 3.4, 3.5, and 3.6 of the Complaint.

17 11. In response to paragraphs 3.7, 3.8, 3.9, 3.10, 3.11, 3.12, and 3.13, Walmart is without
18 knowledge or information sufficient to form a belief as to the truth of the allegations.

19 12. In response to paragraph 4.1 of the Complaint, Walmart denies that it was negligent
20 and/or that any negligence by Walmart directly and/or proximately caused injuries to Plaintiff.
21 As to the remaining allegations in this paragraph, Walmart is without knowledge or
22 information sufficient to form a belief as to the truth of the allegations, and therefore denies the
23 same.

24 13. Walmart denies the allegations in paragraph 4.2 of the Complaint insofar as those
25 allegations pertain to Walmart.

1 14. Walmart denies the allegations in paragraph 4.3 of the Complaint.

2 15. Walmart denies/rejects Plaintiff's "Prayer for Relief" in its entirety.

3
4 AFFIRMATIVE DEFENSES

5 Walmart has not had an opportunity to conduct a full inquiry of the facts underlying
6 this lawsuit, but based upon its knowledge, information and belief formed after discovery in
7 similar personal injury lawsuits, Walmart wishes to interpose the following affirmative
8 defenses, some or all of which may ultimately be supported by the facts to be revealed in
9 discovery and investigation of this case. Upon request and after having conducted discovery in
10 this case, Walmart will voluntarily withdraw those affirmative defenses that are unsupported
11 by the facts revealed in pre-trial discovery and investigation.

12 By way of further answer, and as affirmative defenses to Plaintiff's Complaint,
13 Walmart alleges as follows:

- 14 1. Plaintiff has failed to state a claim upon which relief may be granted.
- 15 2. Plaintiff has failed to mitigate her damages, if any.
- 16 3. Plaintiff's damages, if any, were proximately caused by the negligence of
17 Plaintiff in failing to exercise reasonable care for her own safety.
- 18 4. Plaintiff's claimed injuries and damages are the result of Plaintiff's own
19 comparative or contributory fault.
- 20 5. Plaintiff's claimed injuries and damages were due to actions of third parties
21 beyond the control of Walmart.
- 22 6. If Plaintiff has incurred any injuries or damages, which Walmart denies,
23 Walmart alleges that the risk of such injury or damage to Plaintiff was not foreseeable to
24 Walmart.
- 25 7. Plaintiff has failed to join an indispensable or necessary party.

1 8. Plaintiff has not provided sufficient or timely process, or sufficient or timely
2 service of process.

3 9. Some of Plaintiff's claims are barred by the doctrines of waiver, estoppel,
4 ratification, acquiescence, accord and satisfaction, settlement, consent, agreement, or payment
5 and release.

6 10. Walmart took precautions and affirmative actions that were consistent with the
7 state of its knowledge at the time.

8 11. To the extent any defective or dangerous condition existed, Walmart had no
9 notice of any alleged defective or dangerous condition.

10 12. To the extent any defective or dangerous condition existed, any such condition
11 was open and obvious.

12 13. Pursuant to RCW 4.22.070, the percentage of fault that allegedly caused
13 Plaintiff's injuries, if any, should be apportioned among the following parties or entities:

14 A. Plaintiff, for engaging in any conduct which may have increased her risk
15 of being injured during and/or preceding the incident, and any other factors that future
16 discovery may disclose regarding the degree of fault attributable to Plaintiff;

17 B. Other entities that contributed to Plaintiff's alleged injuries having
18 specific factual or procedural defenses against the Plaintiff that bar Plaintiff's cause[s] of
19 action against those entities;

20 C. Walmart reserves the right to amend the allegations of this section, as
21 future discovery may warrant, to include additional parties or entities that may have
22 contributed to Plaintiff's alleged injuries.

23 14. Walmart could not have realized that the alleged condition of the floor posed an
24 unreasonable risk of harm to Plaintiff.

1 15. Walmart could not have expected that Plaintiff would not discover or realize the
2 danger of the alleged condition of the floor, or fail to protect herself against it.

3 16. Walmart exercised reasonable care to protect Plaintiff and all customers against
4 the alleged condition of the floor at the subject store by regularly inspecting its floors.

5 17. Walmart expressly reserves the right to add additional affirmative defenses
6 pending discovery.

7 REQUEST FOR RELIEF

8 WHEREFORE, having answered Plaintiff's Complaint and having asserted affirmative
9 defenses, Walmart prays for judgment as follows:

- 10 1. For dismissal of Plaintiff's complaint with prejudice;
11 2. For all costs, disbursements, and reasonable and statutory attorney fees incurred
12 in the defense of this action, in an amount to be determined at the time of trial; and
13 3. For such other and further relief as the Court deems just and equitable.

14 DEMAND FOR JURY TRIAL

15 Should this matter proceed to trial, Walmart demands that all issues of fact be
16 determined by a jury of twelve.

17 ///

18 ///

19 ///

20 ///

21 ///

22 ///

23 ///

24 ///

25 ///

1 DATED this 12th day of June, 2018.

2 WILLIAMS, KASTNER & GIBBS PLLC

3 By s/Eddy Silverman
4 Rodney L. Umberger, WSBA No. 24948
5 Eddy Silverman, WSBA No. 53494
6 Reshvin P. Sidhu, WSBA No. 51553

7 Two Union Square
8 601 Union Street, Suite 4100
9 Seattle, WA 98101-2380
10 Phone: 206.628.6600
11 Fax: 206.628.6611
12 Email: rumberger@williamskastner.com
13 esilverman@williamskastner.com
14 rsidhu@williamskastner.com

15 *Counsel for Defendant Walmart Inc.*

CERTIFICATE OF SERVICE

The undersigned certifies under penalty of perjury under the laws of the State of Washington that on the date indicated below, I caused service of a true and correct copy of the foregoing document in the manner indicated below to:

Robert D. Bohm, WSBA No. 42703
ROBERT D. BOHM, PLLC
PO Box 25536
Federal Way, WA 98093
Phone: 206.463.6767
Email: rdbohm@premisesinjurylaw.com
jkgiuffre@premisesinjurylaw.com

Counsel for Plaintiff

☐ U.S. Mail, Postage Prepaid
☐ Fax
☐ ABC Legal Services
☐ Federal Express
☒ ECF/Filing

Jenna Labourr, WSBA No. 44555
Young-Ji Ham, WSBA No. 46421
WASHINGTON INJURY LAWYERS, PLLC
2211 Elliott Avenue, Suite 200
Seattle, WA 98121
Phone: 425.312.3057
Fax: 206.866.0208
Email: jenna@washinjurylaw.com
youngji@washinjurylaw.com
mike@washinjurylaw.com

Co-Counsel for Plaintiff

☐ U.S. Mail, Postage Prepaid
☐ Fax
☐ ABC Legal Services
☐ Federal Express
☒ ECF/Filing

James G. Fick, WSBA No. 27873
Colleen A. Lovejoy, WSBA No. 44386
Graham E. Buchanan, WSBA No. 52603
SCHLEMLEIN FICK & SCRUGGS, PLLC
66 S. Hanford Street, Suite 300
Seattle, WA 98134
Phone: 206.448.8100
Fax: 206.448.8514
Email: jgf@soslaw.com
c.lovejoy@soslaw.com
geb@soslaw.com

Counsel for Defendant Grayhawk Leasing

☐ U.S. Mail, Postage Prepaid
☐ Fax
☐ ABC Legal Services
☐ Federal Express
☒ ECF/Filing

Signed at Seattle, Washington this 12th day of June, 2018.

WILLIAMS, KASTNER & GIBBS PLLC

By s/Jaimisha Steward
Jaimisha Steward, Legal Assistant

DEFENDANT WALMART INC.'S ANSWER TO FIRST AMENDED
COMPLAINT FOR PERSONAL INJURIES AND DAMAGES - 7
(2:17-cv-01440-RSL)

Williams, Kastner & Gibbs PLLC
601 Union Street, Suite 4100
Seattle, Washington 98101-2380
(206) 628-6600